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Hoffman, Warnick & D'Alessandro LLC
75 State Street, 14th Floor
Albany, New York 12207

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FEB 02 2009

Technology Center 2100

In re Application of:
William J. Masek et al.
Application No. 10/670,898
Filed: 09/25/2003
Attorney Docket Number: LOT920030024US1
For: METHOD, SYSTEM AND PROGRAM
PRODUCT FOR TESTING A SERVER
APPLICATION USING A REENTRANT TEST
APPLICATION

)
)
) **DECISION ON REQUEST TO**
) **WITHDRAWAL HOLDING OF**
) **ABANDONMENT**
)
)

On July 17, 2007 a Notice of Non-Compliance was mailed in response to an RCE filed on July 13, 2007. On January 18, 2008, a Petition to reset the time period for responding to the Notice of Non-compliance was filed. Petitioner alleges that the notice was not received from the office. A supplemental response was filed on July 10, 2008 to correct deficiencies found in the original petition.

As noted in MPEP 711.03: "Under the reasoning of Delgar, an allegation that an Office action was never received may be considered in a petition to withdraw the holding of abandonment. If adequately supported, the Office may grant the petition to withdraw the holding of abandonment and remail the Office action". Therefore the petition to reset the time period for response will be treated as a petition to withdraw a constructive holding of abandonment. As indicated in the original petition, Petitioner has accessed the Notice of Non-Compliance through the PAIR system. Therefore, the Office Action will not be re-mailed. Accompanying the petition is a response correcting deficiencies identified in the Notice.

The petition to withdraw the holding of abandonment is **GRANTED**.

The application is being forwarded to the Examiner with instructions to begin consider the amendment filed January 18, 2008.

Any inquiry concerning this decision should be directed to the undersigned whose telephone number is (571) 272-3591.

/Gail O. Hayes/

Gail O. Hayes
Special Program Examiner/Quality Assurance Specialist
Technology Center 2100
Computer Architecture, Software, and
Information Security



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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/670,898	09/25/2003	William J. Masek	LOT920030024US1	5987
23550 7590 02/03/2009 HOFFMAN WARNICK LLC 75 STATE STREET 14TH FLOOR ALBANY, NY 12207			EXAMINER MITCHELL, JASON D	
			ART UNIT 2193	PAPER NUMBER
			NOTIFICATION DATE 02/03/2009	DELIVERY MODE ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

PTOCommunications@hoffmanwarnick.com